

MANEKA GANDHI VS. THE UNION OF INDIA¹

[Maneka Gandhi versus the Union of India](#) is a landmark case that provided a new interpretation of fundamental rights. The case dates back to 1978. Maneka Gandhi, on receiving a notice from the Regional Passport Officer to surrender her passport and not finding any legitimate reason to do so, filed a writ petition under Article 32. She argued that the notice violates her right of Personal Liberty accorded in Article 21 of the Indian Constitution. A bench of 7 judges was formed for the hearing of the petition.

On 4 July 1977, Maneka Gandhi received a notice from the Regional Passport Officer demanding that she surrender her passport, citing section 10(3)(c) of the Passport Act of 1967, which empowers a passport authority to impound a passport on the grounds of public and national interest. Ministry of External Affairs refused to furnish a 'Statement of Reason' when Gandhi requested it. After this, she filed a writ petition, using her Right to Constitutional Remedies (Article 32). Gandhi argued that Section 10(3)(c) of the Passport Act violates her Right to life and Personal Liberty (Article 21).

Question of Law

The major questions of law before the bench were regarding the scope of Article 21, the limits of section 10 (3)(C) of the Passport Act and whether it violates Article 21, Article 19 and Article 14. The bench discussed whether the right to go abroad comes within the ambit of 'personal liberty' guaranteed by Article 21. It also looked for any specific procedure in the Passport Act before depriving a person of their fundamental rights. The consonance between Article 14 (equality before law), Article 19 (freedom of expression and speech) and Article 21 was also a major deliberation before the court. The court also took into consideration whether the impugned order was a violation of natural justice.

Judgement

The majority of the Bench held that the term 'personal liberty' in Article 21 covers a wider range of rights, and the right to go abroad is included under such personal liberty. A person can't be deprived of such rights except through a procedure by law. In the concerned case, the court held that Section 10(3)(C) empowers the Passport Authority and the Central Government to impound a passport for the safeguard of sovereignty; the authorities should also furnish the reason so that the concerned person can appeal to the higher authority. Power like this must be exercised with great care and responsibility and should not be treated as a free pass. Thus, the court did not consider the section discriminatory as argued by the petitioner, but voided the order made by the Regional Passport Authority.

The Court acknowledged that Articles 14, 19 and 21 carry a consonance and thus anything concerned with Article 21 should also be tested on the grounds of the other two articles. The order, according to the court, also violated the principle of natural justice, as it took action

¹ AIR 1978 SUPREME COURT 597

against the petitioner without giving her a reasonable hearing. The court, annulling the order, directed the Passport Authority to allow Maneka Gandhi to show cause against the order.

References

- Maneka Gandhi versus the Union of India AIR 1978 SUPREME COURT 597
<https://indiankanoon.org/doc/1766147/>
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